DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DIRECTORS, FIELD COLLECTION AREA OPERATIONS
DIRECTOR, ADVISORY AND INSOLVENCY

FROM: Dretha Barham **/s/ Dretha Barham**
                              Director, Collection Policy

SUBJECT: Acknowledging IRS as a Victim in order to seek Restitution

This memorandum provides interim guidance (IG) for Field Collection employees and
Advisors on what to do if they receive a request from Federal, State or local law
enforcement agencies seeking an acknowledgement from IRS that it is a victim in non-IRS
litigation cases. Respond to the request for acknowledgement of IRS losses if the purpose
is for obtaining an order of restitution payable to IRS. These changes are effective
immediately and will be incorporated into Internal Revenue Manual (IRM) 5.1.5, *Balancing
Civil and Criminal Cases.* Please disseminate this information to all affected personnel
within your organization.

Issue

In connection with prosecutions for refund fraud schemes, and other tax related crimes,
Federal, State, or local law enforcement agencies may request that the IRS acknowledge it
has been a victim and may seek information on the amount of tax lost, for purposes of
seeking an Order of Restitution at sentencing.

Background

We received a request to acknowledge the IRS as a victim from a local law enforcement
office. Contact with the local law enforcement office revealed that the targets of the
investigation utilized a bank account in order to negotiate tax refund checks. The checks
were negotiated before the targets were apprehended.

The local law enforcement office requested written acknowledgement that the IRS was victimized for purposes of obtaining court ordered restitution in their prosecution of the alleged offenders.

Restitution is a legal remedy that can be ordered by the court in a criminal case. A restitution order requires the criminal defendant to pay money or render services to victims in order to redress the loss the defendant has inflicted. Normally imposed during sentencing, restitution can be agreed to by the parties in a plea agreement or imposed as a condition of probation or supervised release.

Section 6103(k)(6), and the regulations thereunder, provide that an officer or employee of the IRS may, in connection with his official duties, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this title. Pursuant to section 6103(k)(6), the IRS may disclose return and return information to Federal, State and local law enforcement agencies for the purpose of collecting unpaid tax liabilities, including erroneous refunds issued as a result of a refund fraud scheme.

Procedures for Field Collection Personnel

Any Field Collection employee receiving a request for acknowledgement that the IRS has been victimized or sustained a tax loss in non-IRS litigation circumstances will transmit the request using Form 3210, *Document Transmittal* to the address listed below:

Internal Revenue Service
Attn: Collection Advisory
801 Broadway, MDP #53
Nashville, TN   37203

Procedures for Advisory Personnel

Upon receipt of the request, an assigned Advisor will open an ICS NFOI module under code 181.

The Advisor will conduct necessary research to determine the amount of loss, if any, and utilize resources such as PACER, TCIS and/or IDRS command code DDPOL. Discoverer information will most likely be necessary. Advisors do not have access to the Discoverer tool; therefore, the Advisor will need to contact a Management Analyst in the Refund Crimes section of Criminal Investigation (CI) in order to obtain this research. Requests for Management Analysts assistance should be forwarded to cisdcresearch@ci.irs.gov.

Note: In July 2014, Discoverer will no longer be available to IRS personnel and will be replaced with the system Business Objects Enterprises for EFDS. Advisors can add this capability to their profiles via the online 5081. CI involvement in these cases should be minimal at that point.

Once this information is obtained and it is determined that the requested information would facilitate collection, a response letter will be drafted.

Because Federal, State, and local law enforcement personnel to which the return information is being disclosed pursuant to IRC § 6103(k)(6) are not prohibited from redisclosing the information, the information being disclosed should be limited to the information necessary to assist with collection of the erroneous refund(s). Therefore, each response letter should only include:

1. The Defendant's name with no other Personally Identifiable Information (PII).
2. A statement to confirm how the IRS was victimized based on documents publicly available as well as any police report information available.
3. A statement that IRS is providing this letter as requested in order for restitution to be ordered payable to the IRS.
4. The total loss in dollars sustained by the IRS.

Forward the completed response to Counsel and/or Disclosure for review if determined necessary on a case-by-case basis. Submit the response letter to the Territory Manager in Advisory for signature and mail or email back to the requesting party.

Keep a log of all requests received. The case file should include the request letter, the response letter and any research that was performed by the Advisor and Criminal Investigations and this information should be documented on ICS.

If you have questions, please contact me, or a member of your staff may contact Collection Policy Senior Program Analyst Kim Borbon at Kim.Borbon@irs.gov.

cc: Director, Field Collection
     Chief, Criminal Investigation
     Chief, Counsel
     Director, ECS
     www.irs.gov